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NOTE FOR: Burton V. Wides, Esq.
Intelligence Oversight Board

FROM: Anthony A. Lapham
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SUBJECT: Procedures for Implementing Section 3-403 of E. O. 12036

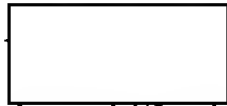
1. I think the proposed draft letter for the President's signature, outlining procedures implementing Section 3-403 of E. O. 12036, does not represent the wisest approach and will be objectionable both to the SSCI and the HPSCI.

2. In the first place, the letter does not unequivocally state that the two Committees will receive intelligence agency reports concerning illegal or improper activities. Direct reporting would be authorized by the draft only with respect to "minor" questions of legality or propriety. More major matters would be reported only if they first reached the President, which they might or might not, and then only in a manner and at a time specified by the President on a case-by-case basis. Aside from the negative reactions they are likely to arouse in the two Committees, these procedures would be cumbersome and difficult to apply because of the personal role assigned to the President.

3. I would favor a simpler approach, namely, a procedure providing that reports regarding questionable intelligence activities are to be furnished to the two Committees within 30 days of the dates on which the same matters are reported to the IOB. That 30-day interval would allow time for IOB and Justice Department review, and for such corrective action as might be required.

4. If the Committees were to send us quarterly requests for reports on questionable activities, is it not your view, as it is mine, that we would have no good choice except to comply? And if that is so, then what is to be gained by adopting the procedures outlined in the draft letter rather than the simpler procedures that I suggest? I think there is nothing to be gained.

5. John Waller has seen this note and indicated his agreement with the views expressed.


Anthony A. Lapham

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The CHAIRMAN. The committee will stand in recess for 15 minutes.

[A brief recess was taken.]

The CHAIRMAN. Let us now resume our hearings.

Senator Huddleston?

Senator HUDDLESTON. I have no further questions, Mr. Chairman.

The CHAIRMAN. Senator Mathias.

Senator MATHIAS. Admiral, under Executive Order 11905 the General Counsel of the Central Intelligence Agency is required to make reports to the Intelligence Oversight Board with respect to any improprieties that may come to his attention within the Central Intelligence Agency. Now, my question to you is, would you, as DCI, provide this committee with the substance of those reports—and I am careful to say the substance, having in mind our colloquy this morning as to certain fine points, but with the substance of those reports, so that the committee can carry out the oversight function with respect to any improprieties which might arise in the future.

Admiral TURNER. Yes, sir.

Senator MATHIAS. Now, in the same connection, Executive Order 11905 provides for the Intelligence Oversight Board to report to the President any activities which it deems to be improper and which it discovers within the intelligence community as a whole.

Will you, as Director, provide this committee with the substance of those reports, so that the committee can carry out its oversight function again?

Admiral TURNER. Yes, sir.

Senator MATHIAS. So that we get it at two different sequential stages.

Admiral TURNER. I see the difference you are—

Senator MATHIAS. In the event that it moves to two different, sequential stages.

Admiral TURNER. Yes.

Senator MATHIAS. Well, I am very gratified to have your unequivocal answer to those two questions.

Admiral TURNER. I may be in for unequivocal problems, but I will—

Senator MATHIAS. Well, I don't expect that you will. I hope that we won't have such questions arising, but I think it is of the greatest importance for this committee to be advised of them if those problems do exist.

Now, turning to another question, in our original study of the intelligence community, one of the most difficult problems that we observed was the lack of statutory charters governing the activities of different elements of the intelligence community. Where there was no statutory charter, the boundaries of jurisdiction were very difficult to define. They could lack permanence. Individuals who might be affected by the activities of the community would find it difficult to ascertain exactly where their rights began and where they ended.

It has been a subject of concern in the Congress that we should develop statutory charters for the different elements of the community that are not governed by charters at this time.

Do you have any problem in working with the Congress in the development of that kind of statutory base?